

REMARKS

Entry of the foregoing and still further reexamination and reconsideration of the subject application, as proposed to be amended, pursuant to and consistent with 37 C.F.R. § 1.116, are respectfully requested in light of the following remarks.

STATUS OF CLAIMS

Upon entry of this amendment, Claims 13, 15, 17, 21, 22 and 25-34 will be in this application, with Claims 26 and 34 being rewritten in independent form and Claim 26 also being rewritten to include the subsequent at least one other redistribution/functionalization step previously set forth only in Claim 34. The remaining claims depend directly or indirectly from Claim 34 or Claim 26. Claims 1-11, 14, 16, 18-20 and 23-24 were previously cancelled, while Claim 12 is proposed to be cancelled by the present amendment, without prejudice or disclaimer.

With respect to the rewriting of Claims 34 and 26, the following remarks are offered:

Claim 34 previously depended from independent Claim 12. Applicants have proposed to rewrite Claim 34 hereinabove to include the features of previous independent Claim 12. Previous Claim 12 is proposed to be cancelled.

Claim 26 previously depended from independent Claim 12. Applicants have proposed to rewrite Claim 26 to include not only the features of previous independent Claim 12, but also the features of previous Claim 34. Thus, Claim 26 as proposed to be amended is narrower in scope than Claim 34 as proposed to be amended, because Claim 26 not only contains the features of previous Claims 12 and 34 but also its own feature which requires that the process comprise three essential steps.

It is clear from the foregoing that the amendment to Claim 34 is merely aimed at rewriting Claim 34 in independent form to include all the limitations of the claim from which it previously depended.

With respect to Claim 26, the amendment merely aims to combine the features of previous Claim 26 and Claim 34 in a single claim; the same scope would have been achieved by amending Claim 26 to depend from Claim 34 rather than from Claim 12.

The remaining amendments merely realign claim dependencies in light of the claims being cancelled. No new matter has been introduced and no new issues have been raised by the proposed amendments. Furthermore, for reasons set forth hereinbelow, it is believed that the foregoing amendment places all of the claims in allowable form. For at least these reasons, entry of the foregoing amendment is respectfully requested.

CLAIM FOR CONVENTION PRIORITY

The Examiner's acknowledgment of the claim for foreign priority and of the certified copy of the priority document is noted, with appreciation. In actuality, a copy of the certified copy of the French priority application was provided by the International Bureau in this national phase application. The priority claim and certified copy were correctly acknowledged in the March 27, 2007 Official Action.

CLAIM OBJECTIONS/REJECTIONS - 35 U.S.C. §112

Applicants appreciate the Examiner's withdrawal of the previous claim objections and rejections under 35 U.S.C. § 112.

CLAIM REJECTIONS - 35 U.S.C. §103

Claims 12-13, 15, 17, 21-22 and 25-33 have been recited under 35 U.S.C. § 103(a) as being unpatentable over Rubinsztajn et al. U.S. Patent No. 5,510,430 in view of Bordone et al. WO 01/44349, and also as being unpatentable over Kobayashi et al. U.S. Patent No. 5,527,874 in view of Bordone et al. WO 01/44349. In order to advance prosecution of this application, despite the fact that they do not agree with the Examiner's position, applicants have cancelled Claim 12 and introduced the limitations of Claim 34 into all of the claims. However, applicants reserve the right to pursue the cancelled subject matter in a continuation application where the rejections will be dealt with. Since the remaining claims of those rejected under 35 U.S.C. § 103, i.e., Claims 13, 15, 17, 21-22 and 25-33, as proposed to be amended will all contain the limitation of previous Claim 34, which was not rejected under 35 U.S.C. § 103, all of the claims as proposed to be amended are clearly free of the 35 U.S.C. § 103(a) rejections.

In view of the foregoing, it is believed that this amendment obviates the obviousness rejections in their entireties.

DOUBLE PATENTING

All of the claims have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting over Claims 13, 26, 37, 41, 55, 58, 61-64 and 67 of copending Appln. No. 10/509,061. Appln. No. 10/509,061 relates to use of an antitumor indole-pyrrolocarbazole derivative and another anticancer agent in combination. It is believed that the Examiner meant to cite related copending Appln. No. 10/509,060 instead. Although the claims in copending Application No. 10/509,060 have been amended concurrently herewith, the claims herein continue to

overlap with, but are not identical to, those in the copending '060 application. An appropriate terminal disclaimer is filed herewith with respect to commonly assigned copending Appln. No. 10/509,060. It is noted that both applications were originally assigned by the inventors to RHODIA CHIMIE, and more recently assigned by RHODIA CHIMIE to BLUESTAR SILICONES FRANCE SAS. The assignments from the inventors were previously recorded in the USPTO; the assignments from RHODIA CHIMIE to the present owner have been submitted for recordal concurrently herewith.

In view of the foregoing, the obviousness-type double patenting rejection based on copending Appln. No. 10/509,060 has been overcome and the claims remaining in the application of those rejected on this basis should be allowed.

CONCLUSION

In view of the foregoing, it is submitted that the claims are proposed to be amended are in allowable form. Entry of the foregoing amendment and issuance of a Notice of Allowance are believed to be next in order and are earnestly solicited.

Respectfully submitted,

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